

ESTTA Tracking number: **ESTTA718067**

Filing date: **01/04/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

**Opposers Information**

Name	Buffalo Bills, LLC
Granted to Date of previous extension	01/03/2016
Address	One Bills Drive Orchard Park, NY 14127 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	01/03/2016
Address	345 Park Avenue New York, NY 10154 UNITED STATES

Attorney information	Kristin H. Altoff Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave NW; Attn: TMSU Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, kaltoff@morganlewis.com, fgordon@morganlewis.com Phone:202.739.5093
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**Applicant Information**

Application No	86542784	Publication date	07/07/2015
Opposition Filing Date	01/04/2016	Opposition Period Ends	01/03/2016
Applicant	Buffalo FAMbase, Inc. P.O. Box 567 Kenmore, NY 14217 UNITED STATES		

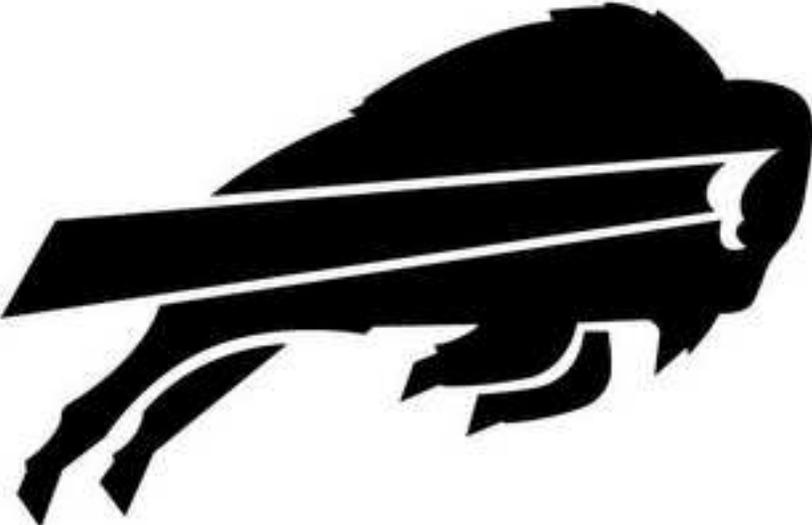
**Goods/Services Affected by Opposition**

Class 036. First Use: 2013/10/31 First Use In Commerce: 2013/10/31 All goods and services in the class are opposed, namely: Charitable fundraising services; Charitable fundraising services by means of an entertainment event; Charitable fundraising services by means of selling t-shirts, wristbands, helmets, stickers, footballs, cell phone cases, hats, jersey patches, mousepads, and other related goods to raise funds for cancer research
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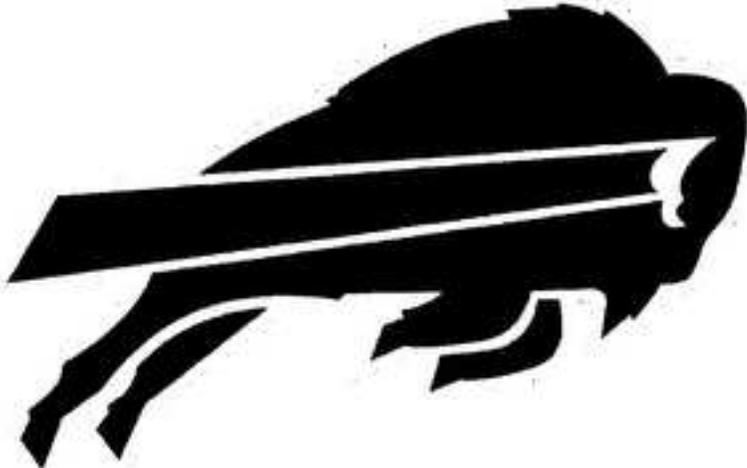
**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3272476	Application Date	09/14/2006
Registration Date	07/31/2007	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of Profile of a charging Buffalo.		
Goods/Services	<p>Class 009. First use: First Use: 1984/09/30 First Use In Commerce: 1984/09/30 Football helmets, [ telephones, ] cell phone covers, cell phone straps, magnetically encoded credit cards, decorative magnets, audio tapes featuring entertainment content related to the sport of football, pre-recorded videotapes and DVDs all featuring audio and video recordings relating to the sport of football; computer game software and discs; computer mouse pads, sunglasses, binoculars, light switch covers; hard hats [ , cd storage cases ]</p> <p>Class 014. First use: First Use: 1985/09/30 First Use In Commerce: 1985/09/30 Jewelry, watches, clocks, ornamental pins, earrings, necklaces, bracelets, charms, tie pins, rings, commemorative and collectible coins; pendants and key chains made of precious metal, statues of precious metal</p>		

U.S. Registration No.	2571410	Application Date	09/10/2001
Registration Date	05/21/2002	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 016. First use: First Use: 1974/04/06 First Use In Commerce: 1974/04/06 posters, calendars, trading cards, series of books relating to football, [ magazines relating to football, newsletters relating to football, notepads, ] stickers, bumper stickers, [ credit cards without magnetic coding, note pads, paper pennants and ] [ greeting cards; ] printed tickets to sports games and events; [ non-magnetically coded prepaid phone cards, ] pens and [ pencils, ] pencil cases, rub on decorative transfers, [ note paper, ] pictorial prints, [ picture postcards, ] art pictures, [ stationery, envelopes, ] stationery-type portfolios, photo albums, [ scrapbook albums, ring binders, ] checkbook covers, [ tissue paper, ] wrapping paper, playing cards, [ papertable cloths, ] [ paper napkins, ] [ paper party hats, paper party invitations, paper gift cards; ] paper gift bags, [ paper gift boxes, paper decorations, ] collectible cards; collectible card and memorabilia holders, souvenir programs for sports events</p> <p>Class 025. First use: First Use: 1974/04/06 First Use In Commerce: 1974/04/06 men's, women's and children's clothing, namely, fleece tops and bottoms, caps, headwear, T-shirts, sweatshirts, shorts, tank tops, [ jeans, ] sweaters, pants, jackets, turtlenecks, [ jumpsuits, ] golf shirts, woven shirts, knit shirts, jerseys, [ wristbands, ] warm up suits, [ swimwear, ] wind resistant jackets, raincoats, parkas, ponchos, gloves, ties, [ suspenders, ] cloth bibs, sleepwear, namely, robes, night shirts and pajamas, mittens, knit hats and caps, scarves, aprons, headbands, ear muffs, [ underwear, ] [ sneakers ] and slippers</p> <p>Class 028. First use: First Use: 1974/04/06 First Use In Commerce: 1974/04/06 toys and sporting goods, namely, plush toys, stuffed animals, play figures, golf balls, [ golf bags, ] [ golf clubs, ] golf club covers, [ bowling balls, bowling bags, ] footballs, toy banks, hand held unit for playing electronic games; hand held unit for playing video games; board games relating to football, Christmas tree ornaments, [ balloons, ] jigsaw puzzles, [ toy and decorative windsocks, kites, toy trucks, ] billiard balls, dart boards</p> <p>Class 041. First use: First Use: 1974/04/06 First Use In Commerce: 1974/04/06 education and entertainment services in the nature of professional football games and exhibitions; providing sports and entertainment information via a global computer network or a commercial on-line service; organization of sports events; fan club services; educational services, namely, physical education programs; arranging and conducting athletic competitions, namely professional football games and exhibitions; entertainment services, namely, musical and</p>

	dance performances provided during intervals at sports events; [ educational services, namely, physical education programs; ] production of radio and television programs, live shows featuring football games, exhibitions, competitions and musical, [ comedy ]and dance performances
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U.S. Registration No.	1888392	Application Date	05/15/1992
Registration Date	04/11/1995	Foreign Priority Date	NONE

Word Mark	NONE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 016. First use: First Use: 1970/09/00 First Use In Commerce: 1970/09/00 trading cards, posters, magazines and books relating to professional football, postcards, calendars, wrapping paper, paper gift boxes, paper stickers, paper napkins, [ paper towels, ] posterbooks, notepads, paper hats and greeting cards</p> <p>Class 025. First use: First Use: 1970/02/00 First Use In Commerce: 1970/02/00 men's, women's and children's clothing and footwear; namely, coaches caps, woolhats, [ painters caps, ] baseball caps, visors, headbands, ear muffs, [ knit face masks, ] belts, wristbands, T-shirts, tank tops, pajamas, golf shirts, sweaters, sweatshirts, jackets, neckties, suspenders, bibs, jerseys, night shirts, coats, robes, raincoats, parkas, ponchos, sneakers, gloves, scarves, snow suits, mittens, aprons, down jackets, leather jackets, shorts, sweatpants, jeans, pants, [ knickers, ] socks, underwear, [ bathing suits and leg warmers ]</p>
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U.S. Registration No.	1041484	Application Date	06/23/1975
Registration Date	06/15/1976	Foreign Priority Date	NONE

Word Mark	NONE
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1974/04/06 First Use In Commerce: 1974/04/06 ENTERTAINMENT SERVICES IN THE FORM OF PROFESSIONAL FOOTBALL GAMES AND EXHIBITIONS

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Design of buffalo facing left (as depicted in the Notice of Opposition)		
Goods/Services	Goods and services used in connection with the business of organizing, conducting, and promoting the Bills football franchise		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Design of buffalo facing right(as depicted in the Notice of Opposition)		
Goods/Services	Goods and services used in connection with the business of organizing, conducting, and promoting the Bills football franchise		

Attachments	78974784#TMSN.png( bytes ) 76311534#TMSN.png( bytes ) 74276865#TMSN.png( bytes ) 73055794#TMSN.png( bytes ) MAFIA and Buffalo Design Notice of Opposition.pdf(224653 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kristin H. Altoff/
Name	Kristin H. Altoff
Date	01/04/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BUFFALO BILLS, LLC and NFL  
PROPERTIES LLC,

Opposers,

v.

BUFFALO FAMBASE, INC.,

Applicant.

In re Application Serial No. 86/542,784  
Mark: MAFIA and Design



Published: July 7, 2015

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

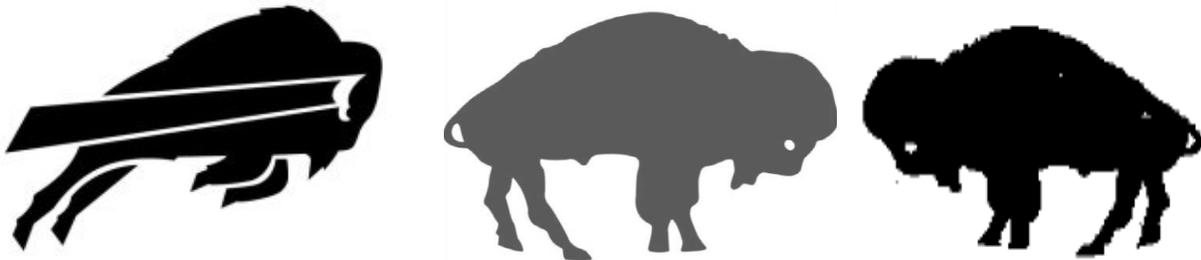
Opposers Buffalo Bills, LLC and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the designation MAFIA and Buffalo Design shown in Application Serial 86/542,784 (“Applicant’s Designation”), filed by Buffalo FAMbase, Inc., a New York corporation located in suburban Buffalo, NY (“Applicant”) for use in connection with services in Class 36. Opposers hereby oppose registration of Applicant’s Designation under the provisions of Sections 2(a), 2(d), 13, 43(a) and 43(c) of the Trademark Act of July 5, 1946 (the “Lanham Act”), 15 U.S.C. §§ 1052(a), 1052(d), 1063, and 1125(c).

As grounds for opposition, Opposers allege that:

1. Opposer Buffalo Bills, LLC (the “Bills” or “Bills Club”) is a Delaware limited liability company, with a principal place of business at One Bills Drive, Orchard Park, New York 14127. The Bills Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Bills Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 345 Park Avenue, New York, New York, 10154. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Member Clubs with respect thereto.

3. For many years, and long before either the February 23, 2015 filing date of Applicant’s Designation or the asserted October 31, 2013 date of first use, Opposers have used the designs of a buffalo, including those depicted below (collectively, “Opposers’ Buffalo Marks”) in connection with the business of organizing, conducting, and promoting the Bills football franchise.



4. For many years, and long before either the February 23, 2015 filing date of Applicant’s Designation or the asserted October 31, 2013 date of first use, Opposers, their authorized business partners, sponsors, and/or licensees have used Opposers’ Buffalo Marks on or in connection with the sale of a wide variety of goods and services related to the business of organizing, conducting, and promoting the Bills football franchise.

5. In addition to the common law rights in Opposers’ Buffalo Marks, the Bills Club owns several registrations for Opposers’ Buffalo Marks for use in connection with clothing, entertainment services in the form of football games and exhibitions, and related promotional

goods and services, including, among others, the following registrations issued by the United States Patent and Trademark Office (“PTO”):

Registration Number	Mark	International Class(es)	Date of First Use
3,272,476		9, 14	09/30/1984 (Cl. 9) 09/30/1985 (Cl. 14)
2,571,410		16, 25, 28, 41	04/06/1974
1,888,392		16, 25	09/1970 (Cl. 16) 02/1970 (Cl. 25)
1,041,484		41	04/06/1974

6. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Bills Club’s exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

7. The registrations referenced above are also incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitute conclusive evidence of the Bills Club’s exclusive right to use the marks in commerce in connection with the goods and/or services specified in the registrations.

8. The Bills Club also owns New York state trademark registrations for one or more of Opposers’ Buffalo Marks, including New York Reg. No. S3172 for the mark depicted below,

issued on July 24, 1975 for “entertainment services rendered in connection with professional sports.”



9. During the longstanding, widespread and continuous use of Opposers’ Buffalo Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services, including clothing, bearing Opposers’ Buffalo Marks.

10. The colors used by and associated with the Bills Club are red, blue and white.

11. Opposers’ Buffalo Marks often appear in red, blue and white, as depicted below.



12. Opposers and their licensees and sponsors have sold and offered for sale goods and services, including clothing, bearing Opposers’ Buffalo Marks in a trading area of broad geographical scope encompassing the United States, including its territories.

13. Opposers and their licensees and sponsors have sold and offered for sale goods and services, including clothing, bearing Opposers’ Buffalo Marks in numerous channels of trade.

14. Opposers' Buffalo Marks are symbolic of the extensive goodwill and consumer recognition that Opposers have established through substantial expenditures of time, effort and other resources in the advertising and promotion of the goods and services Opposers sell and offer for sale under Opposers' Buffalo Marks.

15. As a result of Opposers' regular, extensive and well-publicized use, one or more of Opposers' Buffalo Marks are famous in the United States and are associated exclusively with Opposers and their high quality goods and services.

16. On February 23, 2015, Applicant filed an application under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), for federal registration of Applicant's Designation shown in Application Serial No. 86/542,784.

17. The application for Applicant's Designation covers the following Class 36 services:

Charitable fundraising services; Charitable fundraising services by means of an entertainment event; Charitable fundraising services by means of selling t-shirts, wristbands, helmets, stickers, footballs, cell phone cases, hats, jersey patches, mousepads, and other related goods to raise funds for cancer research

18. Applicant's Designation, Application Serial No. 86/542,784, was published for opposition in the *Official Gazette* on July 7, 2015.

19. The Trademark Trial and Appeal Board extended the opposition period for the Applicant's Designation by granting Opposers' timely requests for extensions. The opposition period for Application Serial No. 86/542,784 expires on January 3, 2016. Because the deadline falls on a Sunday, Opposers timely file this opposition on January 4, 2016.

20. Opposers' rights to Opposers' Buffalo Marks are superior to those of Applicant.

21. One or more of Opposers' Buffalo Marks are famous and became famous before the filing date or any use of Applicant's Designation.

22. Applicant's application for and any use of Applicant's Designation are without the consent, authorization, or license of Opposers.

23. The specimens Applicant submitted to support its application for Applicant's Designation evidence that Applicant uses its mark in the colors red, blue and white.



BillsMafia Oval Magnet



BillsMafia Oval Sticker

24. The specimens Applicant submitted to support its application for Applicant's Designation demonstrate use of Applicant's Designation in connection with football indicia, including images of footballs, football helmets and football jerseys.



Mini Helmets



BillsMafia Patch



Footballs

25. The specimens Applicant submitted to support its application for Applicant's Designation evidence that Applicant uses its mark in connection with the Bills Club's BILLS mark.



BillsMafia Oval Magnet



BillsMafia Oval Sticker

26. The specimens Applicant submitted to support its application for Applicant's Designation demonstrate use of Applicant's Designation in connection with "Buffalo."



27. The specimens Applicant submitted to support its application for Applicant's Designation demonstrate use of Applicant's Designation in connection with "Pegula," the last name of the owner of the Bills Club, and the names of former Bills Club players and coaches.



28. Depicted below is an image from the specimens Applicant submitted to support its application for Applicant’s Designation, on the left, and a sample image of one of Opposers’ Buffalo Marks, on the right.

**Specimen from Applicant’s Application**



**Sample Use of Opposers’ Buffalo Marks**



29. Applicant uses Applicant’s Designation as an avatar and in connection with its Twitter account with the handle “@TheBillsMafia” and on its Facebook page (<https://www.facebook.com/BillsMafia/>), the content of which relate to the Bills Club football team.

30. Applicant uses Applicant’s Designation on its website at <http://buffalofambase.org> (and [www.billsmafia.com](http://www.billsmafia.com), which redirects to <http://buffalofambase.org/>), the content of which relate to the Bills Club football team.

31. Opposers believe they will be damaged by registration of Applicant’s Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that Applicant’s use and registration of the subject designation will falsely suggest a connection between Applicant and Opposers named herein to the damage of Opposers, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

32. Opposers believe they will be damaged by registration of Applicant’s Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject

designation so resembles Opposers' Buffalo Marks used by Opposers in the United States as to be likely, when used on or in connection with the services identified in the application for Applicant's Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposers and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

33. Opposers believe they will be damaged by registration of Applicant's Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, because the use and registration of Applicant's Designation is likely to dilute the distinctive quality of Opposers' famous Buffalo Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposers believe they will be damaged by registration of Applicant's Designation shown in Application Serial No. 86/542,784 and respectfully request that the registration sought by Applicant be refused.

Dated: January 4, 2016

Respectfully submitted,

By: /s/ Kristin H. Altoff  
Michael F. Clayton  
Kristin H. Altoff  
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1111 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Tel: (202) 739-3000  
Fax: (202) 739-3001

Attorneys for Opposers  
BUFFALO BILLS, LLC  
and NFL PROPERTIES LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition has been sent via first class mail, postage pre-paid on this 4th day of January 2016 to:

REBECCA M. STADLER  
DEL VECCHIO AND STADLER LLP  
640 ELLICOTT ST  
BUFFALO, NEW YORK 14203-1245

/Kristin H. Altoff/